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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,689	11/30/2000	Kiyoshi Ishiyama	Q62061	1553

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SUGHRUE, MION, ZINN, MACPEAK & SEAS  
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Washington, DC 20037-3202

EXAMINER

RAO, ANAND SHASHIKANT

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/725,689

Applicant(s)

ISHIYAMA, KIYOSHI

Examiner

Andy S. Rao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 2-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed with respect to claim 1 as filed in Paper 12 on 9/16/03 have been fully considered but they are not persuasive.
2. Claim 1 remains rejected under 35 U.S.C. 102(e) as being anticipated by Bailleul, as was set forth in the prior Office Action of Paper 6 filed on 9/16/03.
3. The Applicant presents one argument contending the Examiner's rejection of claim 1 under 35 U.S.C. 102(e) as being anticipated by Bailleul, as was set forth in the previous Office Action of Paper 6 filed in on 9/16/03. However, after a careful consideration of the argument presented, the Examiner must respectfully disagree for the reasons that follow.

After concentrating on dissecting the buffer fullness and delay parameters and how they are manipulated by the Bailleul controller in setting the quantization step size (Paper 7: page 18, lines 15-19; page 19, lines 1-11), the Applicants asserts that Bailleul first uses a calculating parameter from the input buffer and not monitored information (Paper 7: page 19, lines 12-15), and that the only monitored information input from the output buffer as the reasons that claim 1 is not anticipated by the art (Paper 7: page 19, lines 16-18). The Examiner respectfully disagrees on both counts. Firstly, whether the calculation is necessary or not is not the issue, as it is a simple calculation to get from time delay to bit rate and vice versa which is what is occurring here. Additionally, it is noted that the control codes are the information that is being monitored from the input buffer and that the presence of those control codes as stripped off from the input buffer that is what is being used to determine the quantization step size from the input buffer (Bailleul: column 9, lines 60-67; column 10, lines 1-40). It is submitted that since the control codes

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themselves are used in determining the quantization step size and are stripped off from the input buffer, they are sufficient to read on the limitation. It is additionally noted that claim 1 never stipulates what, if anything, about the input buffer is being monitored (state of fullness, condition of underflow or overflow, buffer delay, and etc), only that information from said input buffer is used to determine the quantization step size. As such, the control codes read on the current scope of this claim, as the input buffer monitor of Bailleul is monitoring the data stream for the presence and position of control codes in order to make sure that they are properly placed in the transcoded output stream (Bailleul: column 3, lines 5-35). Accordingly, the Examiner maintains that the limitation is met.

### *Conclusion*

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (703)-305-4813. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris S. Kelley can be reached on (703)-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andy S. Rao  
Primary Examiner  
Art Unit 2613

ANDY RAO  
PRIMARY EXAMINER



asr  
March 11, 2004